

## **Report of Survey Rebuttals**

1. PURPOSE: To provide a checklist to Legal Assistance attorneys for use in preparing Rebuttals to Reports of Survey.

2. The ROS must be processed through the chain of command of the individual responsible for the property at the time of the incident (unless a formalized support agreement states otherwise)(para 13-4).

### **3. Time Constraints**

a. Processing time for the ROS (from date of discovering discrepancy to date of ROS approval) should not exceed 75 calendar days (para 13-5).

b. ROS should be initiated and presented to the approving authority not later than 15 calendar days after the date of discovering the discrepancy (para 13-7).

c. The survey officer has up to 30 calendar days from the date of receipt to complete his ROS investigation. Any delay must be explained in writing and attached to the ROS (para 13-29).

d. When time constraints are not complied with, the person responsible for the delay must include a written statement explaining the reasons for the delay as an exhibit to the ROS (para 13-5).

### **4. Approving Authority**

a. Lieutenant Colonel (05) commanders are approving authorities for ROS's arising within their command (para 13-6a).

b. Appointing authorities [normally Battalion Commanders, Lieutenant Colonel (05),] must appoint the survey officer by completing Blocks 21 through 25 of DA Form 4697 (para 13-16, 13-25a).

c. No person who had personal responsibility for the property may act as approving authority. In such cases, the next higher commander in the chain of command will act as approving authority (para 13-17).

### **5. Survey Officer**

a. The survey officer must be a commissioned or warrant officer, enlisted member in the grade of E-7 or above, or a civilian employee GS7/WG-7 or above (para 13-28a).

b. Survey officer must be senior in rank to the individual subject to potential liability, except when impractical, because of military exigencies (para 13-28b). For an example of what does not constitute a military exigency, see AR 15-6, para 2-1c(3).

c. Survey officer cannot be a person who is personally responsible or in any way directly interested in the property which is the subject of the ROS (para 13-28c).

6. The survey officer's determination must be based upon a thorough and impartial investigation (para 13-30).
7. Ensure that the survey officer understands the legal concepts of simple negligence, gross negligence, proximate cause, etc., and understands what is required to hold an individual liable for damage to or loss of property (para 13-30).
8. Ensure that the survey officer did not have predetermined ideas as to what caused or who is to blame for the loss -- must be unbiased (para 13-31a).
9. Survey officer must interview and obtain statements from all individuals whose testimony may be useful (para 13-31d).
10. Survey officer cannot simply rely on statements made by persons who were responsible for property listed on the ROS -- such evidence must be confirmed by other independent evidence (para 13-31e).
11. Survey officer must state findings which are based on the evidence in the record in Block 26 of DA Form 4697 (para 13-32).
12. Survey officer must explain how he resolved conflicting evidence [para 13-32a(2)].
13. Ensure that the survey officer properly determined the value of the lost, damaged or destroyed property (including depreciation, if allowed), and entered these amounts in Blocks 26 through 27c of DA Form 4697 [para 13-32c(1), App B]
14. Recommendation
  - a. Survey officer must enter his recommendation (based on findings) in Blocks 26 and 27, complete Blocks 28 and 29, and have the individual recommended for liability complete Blocks 32b of DA Form 4697 (para 13-32).
  - b. Survey officer will include:
    - (1) name and SSN of individual
    - (2) Whether liability is based on simple negligence, gross negligence or willful misconduct  
(when the loss, damage or destruction involves Government Quarters, furnishing and/or equipment therein).
    - (3) the amount to be charged the individual
    - (4) charges were properly computed for single liability (table 12-3) or joint liability (table 120-4)
    - (5) amount of individual's monthly base pay at the time of loss
    - (6) date individual is inspected to ETS [para 13-32c(6)]
15. The survey officer must give the individual a proper right's warning (para 13-34b).